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12 YouTube, LLC

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
15

16 REALTIME ADAPTIVE
17 STREAMING LLC,

18 Plaintiff,

19 vs.

20 GOOGLE LLC, and YOUTUBE, LLC,

21 Defendants.
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Case No. 2:18-CV-03629-GW-JC

**DEFENDANTS' NOTICE OF
MOTION AND MOTION TO
DISMISS PORTIONS OF
PLAINTIFF'S COMPLAINT**

Date: August 27, 2018
Time: 8:30 a.m.
Courtroom: 9D
Judge: Hon. George H. Wu

1 PLEASE TAKE NOTICE that on August 27, 2017, at 8:30 a.m., or as soon
2 thereafter as the matter may be heard, in the Courtroom of the Honorable George H.
3 Wu, United States District Court Judge, located at 350 W. 1st Street, Courtroom 9D,
4 Los Angeles, California, Defendants Google LLC and YouTube, LLC (collectively
5 “Google”), will and hereby do move the Court under Federal Rule of Civil
6 Procedure 12(b)(6) to dismiss portions of Plaintiff Realtime Adaptive Streaming
7 LLC’s (“Realtime”) Complaint. (ECF No. 1.)

8 Three of the five patents asserted in the Complaint (the “Fallon patents”) are
9 directed to the abstract idea of selecting an algorithm to compress data based on
10 some parameter. The claims of the Fallon patents do not contain any inventive
11 concept; they do not identify any new compression algorithm or disclose any novel
12 algorithm for selecting a compression method. Instead, the Fallon patents instruct a
13 user to select from among well-known compression algorithms based on some
14 attribute of the system or the data to be processed. Accordingly, the claims of the
15 Fallon patents are patent-ineligible under 35 U.S.C. § 101, and Counts I, II, and III
16 of the Complaint should be dismissed.

17 One of the other patents asserted in the Complaint was surrendered by
18 Realtime prior to filing the Complaint and cannot be the subject of an infringement
19 suit. Realtime does not dispute that it surrendered the patent, and the Court should
20 dismiss Count IV of the Complaint.

21 Google’s motion is based upon this Notice of Motion, the accompanying
22 Memorandum of Points and Authorities, the concurrently filed Request for Judicial
23 Notice, all pleadings and papers on file in this action, and such other argument and
24 evidence as may be presented to the Court prior to or at the hearing on this matter.

25 This motion is made following the conference of counsel pursuant to L.R. 7-
26 3, which took place on July 6, 2018.

1 DATED: July 16, 2018

MUNGER, TOLLES & OLSON LLP

2 GREGORY P. STONE

3 TED DANE

4 PETER E. GRATZINGER

5 ZACHARY M. BRIERS

6 By: /s/ Ted Dane

7 TED DANE

8 Attorneys for Defendants Google LLC and
9 YouTube, LLC

CERTIFICATE OF SERVICE

I certify that I caused the attached document to be filed using the Court's CM/ECF system and thereby served on counsel of record. I further certify that I have obtained the concurrence in the filing of this document by the above signatory.

DATED: July 16, 2018

/s/ Zachary M. Briers

Zachary M. Briers